

BEFORE THE IOWA BOARD OF PHARMACY

RE: Pharmacy License and Controlled Substances Act Registration of PRICE CHOPPER License No. 1527 Registration No. 1108022 Respondent	CASE NO. 2019-0217 COMBINED STATEMENT OF CHARGES, SETTLEMENT AGREEMENT, AND FINAL ORDER
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COME NOW the Iowa Board of Pharmacy ("Board") and Price Chopper ("Respondent"), 1819 Beaver Ave, Des Moines IA 50310, and enter into this Combined Statement of Charges, Settlement Agreement, and Final Order ("Order") pursuant to Iowa Code sections 17A.10 and 272C.3(4), and 657 IAC 35.5. The Board has jurisdiction over Respondent and the subject matter of this case pursuant to Iowa Code chapters 17A, 124, 155A, and 272C (2019), and 657 IAC 36.

A. STATEMENT OF CHARGES

COUNT I

FAILING TO ESTABLISH AND MAINTAIN EFFECTIVE CONTROLS AGAINST THEFT

1. Respondent is charged with failing to establish and maintain effective controls against the theft or diversion of controlled substances in violation of 657 IAC 8.3(5)"b" and 10.13, and may be disciplined pursuant to Iowa Code sections 124.304(1)(d), 155A.15(2)(c), and 155A.15(2)(i), and 657 IAC 10.10(1)"d", 10.44(5), and 36.6(21).

B. FACTUAL CIRCUMSTANCES

2. Respondent's Iowa pharmacy license is currently active through December 31, 2020. Respondent's Iowa Controlled Substances Act registration is currently active through June 30, 2020.

3. From September to December 2019, Respondent experienced three burglaries that resulted in thefts of significant quantities of controlled substances.

4. Respondent failed to timely implement security changes after the first two burglaries.

5. Respondent has now significantly increased security to prevent future burglaries.

C. SETTLEMENT AGREEMENT AND FINAL ORDER

6. The Board has jurisdiction over the parties and the subject matter of this proceeding.

7. Respondent acknowledges that the allegations in the Statement of Charges, if proven in a contested case hearing, would constitute grounds for the discipline agreed to in this Order.

8. Execution of this Order constitutes the resolution of a contested case. Respondent has a right to hearing before the Board on the charges, but Respondent waives the right to hearing and all attendant rights, including the right to appeal or seek judicial review of the Board's action, by freely and voluntarily entering into this Order. Once entered, this Order shall have the force and effect of a disciplinary order entered following a contested case hearing.

9. Respondent acknowledges that it has the right to be represented by counsel on this matter.

10. Respondent agrees that the State's counsel may present this Order to the Board and may have *ex parte* communications with the Board while presenting it.

11. This Order is subject to approval by a majority of the full Board. If the Board does not approve this Order, it shall be of no force or effect to either party, and shall not be admissible for any purpose in further proceedings in this matter. If the Board approves this Order, it shall be the full and final resolution of this matter.

12. This Order shall be part of Respondent's permanent record and shall be considered by the Board in determining the nature and severity of any disciplinary action to be imposed in the event of any future violations.

13. Respondent understands the Board is required by federal law to report any adverse action to the National Association of Boards of Pharmacy's Disciplinary Clearinghouse and the National Practitioner Data Bank.

14. This Order, when fully executed, is a public record and is available for inspection and copying in accordance with the requirements of Iowa Code chapters 22 and 272C.

15. The Board's approval of this Order shall constitute a **FINAL ORDER** of the Board.

IT IS THEREFORE ORDERED:

16. Respondent is hereby **CITED** for failing to establish and maintain effective controls against theft and **WARNED** that future violations of the laws and rules governing pharmacies can result in further disciplinary action.

17. Respondent shall pay a **CIVIL PENALTY** in the amount of ten thousand dollars (\$10,000) within sixty (60) days of Board approval of this Order. The check shall be made payable to the "Treasurer of Iowa" and shall be deposited in the general fund. The civil penalty should be mailed to the Iowa Board of Pharmacy, Attn: Amanda Woltz, 400 SW 8th St, Ste E, Des Moines IA 50309.

18. Should Respondent violate the terms of this Order, the Board may initiate action to impose other licensee discipline as authorized by Iowa Code chapters 124, 155A, and 272C and 657 IAC chapters 10 and 36.

By the signature below, Eric Bickel acknowledges s/he is the Pharmacy Director for Respondent and is authorized to sign this Combined Statement of Charges, Settlement Agreement, and Final Order on behalf of Respondent.

6-11-2020
Date

Eric Bickel
PRICE CHOPPER
Respondent

This Combined Statement of Charges, Settlement Agreement, and Final Order is approved by the Iowa Board of Pharmacy on June 23, 2020.

TUE
Chairperson
Iowa Board of Pharmacy